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**SUBSTITUTE HOUSE BILL 1976**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representatives Vick, Blake, Hurst, and Tharinger)

AN ACT Relating to marketing opportunities for spirits produced in Washington by craft and general licensed distilleries; amending RCW 66.24.140, 66.24.145, and 66.20.010; and adding a new section to chapter 66.20 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 66.24.140 and 2014 c 92 s 4 are each amended to read as follows:

(1) There ((~~shall be~~)) is a license to distillers, including blending, rectifying, and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee; and

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

(2) Any distillery licensed under this section may:

(a) Sell spirits of its own production for consumption off the premises. A distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

**Sec.**  RCW 66.24.145 and 2014 c 92 s 1 are each amended to read as follows:

(1)(a) Any craft distillery may sell spirits of its own production for consumption off the premises.

(b) A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free or for a charge, one‑half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

(4)(a) A distillery or craft distillery licensee may apply to the board for an endorsement to sell spirits of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a distillery or craft distillery will sell spirits at a qualifying farmers market, the distillery or craft distillery must provide the board or its designee a list of the dates, times, and locations at which bottled spirits may be offered for sale. This list must be received by the board before the spirits may be offered for sale at a qualifying farmers market.

(c) Each approved location in a qualifying farmers market is deemed to be part of the distillery or craft distillery license for the purpose of this title. The distillery or craft distillery may not store spirits at a farmers market beyond the hours that the bottled spirits are offered for sale. The distillery or craft distillery may not act as a distributor from a farmers market location.

(d) Before a distillery or craft distillery may sell bottled spirits at a qualifying farmers market, the farmers market must apply to the board for authorization for any distillery or craft distillery with an endorsement approved under this subsection to sell bottled spirits at retail at the farmers market. This application must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved distillery or craft distillery may sell bottled spirits; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled spirits may be sold. Before authorizing a qualifying farmers market to allow an approved distillery or craft distillery to sell bottled spirits at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (4)(d) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(e) For the purposes of this subsection (4), "qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(5) The board must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

((~~(5)~~)) (6) Distilling is an agricultural practice.

**Sec.**  RCW 66.20.010 and 2013 c 59 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) ((~~shall~~)) must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premises of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted via the board's online web portal for private banquet permits at least ten days before the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No distillery may receive more than twelve permits under this subsection (13) each year.

NEW SECTION. **Sec.**  A new section is added to chapter 66.20 RCW to read as follows:

(1) The holder of a license to operate a distillery or craft distillery under RCW 66.24.140 or 66.24.145 may apply to the board to deliver or ship spirits of its own production to a person at an address within Washington state. The board may issue a permit under this section if the applicant:

(a) Operates a distillery or craft distillery in Washington;

(b) Certifies that it holds all necessary state and federal licenses and permits; and

(c) Certifies that it is registered with the department of revenue under RCW 82.32.030.

(2) The holder of a distiller shipping permit under this section must comply with the following conditions as to every sale:

(a) The spirits sold and shipped must not be for resale and the person receiving delivery of the spirits must execute a written verification that the spirits will not be resold;

(b) The spirits sold and shipped must come directly from the distillery's or craft distillery's possession before shipment or delivery;

(c) The distillery or craft distillery shall treat each transaction as if it were conducted in the retail location of the distillery or craft distillery;

(d) All orders and payments must be fully processed before spirits transfers ownership or, in the case of a delivery, leaves a licensed distillery's or craft distillery's possession;

(e) A distillery or craft distillery licensee is accountable for all deliveries of liquor made on its behalf;

(f) Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.;

(g) Except as authorized by the board, delivery may be made only to a residence or business that has an address recognized by the United States postal service. A residence includes a hotel room, a motel room, marina, or other similar lodging that temporarily serves as a residence;

(h) Spirits may not be delivered to a person under twenty-one years of age. A delivery person must verify the age of the person accepting delivery before handing over liquor. If no person twenty-one years of age or older is present to accept a spirits order at the time of delivery, the spirits must be returned;

(i) The person delivering the spirits must execute a written verification that the person receiving the spirits did not appear intoxicated at the time of delivery;

(j) Only a distillery or craft distillery licensee or an employee of a licensee may accept and process orders and payments. A contractor may not accept or process orders or payments on behalf of a distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customers on behalf of a distillery or craft distillery licensee.

(3) The holder of a distiller shipping permit under this section may accept orders in person at a licensed premises, by mail, telephone, or internet, or by other similar means.

(4) To sell spirits via the internet, an applicant for a permit under this section must seek approval by the board in its application. When selling over the internet, all web site pages associated with the sale of liquor must display the distillery or craft distillery licensee's registered trade name and license number.

(5)(a) Individual units of spirits must be factory-sealed in bottles. For the purposes of this subsection, "factory-sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(6)(a) Records and files must be retained at the licensed premises. Each delivery sales record must include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(7) Holders of a spirits delivery and shipper's permit must collect and remit to the department of revenue all applicable state and local sales and use taxes imposed by or under the authority of chapters 82.08, 82.12, and 82.14 RCW on all sales of spirits delivered to buyers in this state. Sales, delivery, and shipment of spirits under this section must be treated as though they were a retail sale taking place in person in a craft distillery retail tasting room for purposes of fees imposed by RCW 66.24.630(4) and 66.24.055(3).

(8) A spirits delivery and shipper's permit holder must report to the board, on or before the twentieth day of each month, all deliveries or shipments of spirits made during the preceding calendar month directly to Washington consumers under its permit. All reports will be on forms prescribed by the board.

(9) The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

(10) The board may make rules to implement this section.

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